IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 267 OF 2006

MR. DHANANJAY NAIK, CURCA, ILHAS GOA. ....Petitioner

Versus

SMT. MILAN NAIK,VASCO DA GAMA,GOA. ....Respondent

Mrs. A.A. Agni, Advocate for the Petitioner.
Shri Rohit Bras de Sa, Advocate for the Respondent.

Coram:- SMT. RANJANA DESAI, J.

Date:- 5th July, 2006

P.C.:

Heard learned counsel for the Petitioner and respondent.

2. The petitioner/husband has challenged the Orders dated 20.04.06 and 8.06.06 passed by the Civil Judge J.D., Panaji in Regular Civil Suit No. 8/2000/C It appears that on 20.04.06 as the petitioner's counsel was not present, the Court passed an Order under O.18, Rule 4 of Code of Civil Procedure closing the evidence of the petitioner. The Court observed that the matter was called out on three occasions, but the Advocate for the petitioner was not present. An application was filed praying that the said order be set aside and the petitioner/defendant may be permitted to lead evidence. That application was rejected by the impugned order holding that the Court lacked jurisdiction to set aside its order.

3. I have heard learned counsel for the parties. In my opinion, in the facts and circumstances of the case and in the interest of justice, the impugned orders deserve to be set aside after saddling the petitioner with costs. Hence the following Order :-

The impugned orders dated 20.04.06 and 8.06.06 are set aside on condition that the petitioner pays to the respondent a sum of Rs.5000/- as costs. The sum of Rs.5000/- be paid within a period of three weeks from today. The payment of Rs.5000/- is condition precedent to the setting aside of the impugned orders. On such orders being set aside, the parties shall cooperate with the learned Judge and ensure expeditious disposal of the matter. In the facts and circumstances of the case the learned trial Judge should hear and decide the case as early as possible and in any event, within a period of one year from today.

A grievance was made by the learned counsel for the respondent that the respondent is not receiving the maintenance amount in time and the amount is sent at the wrong address. Hence I direct that by 10th of every month the petitioner shall pay the maintenance amount at the following address:- Smt. Milan Naik, C/o Pandurang Sitaram Vast, Headland Sada, House No. 252, Vasco da Gama, Goa.

Petition disposed of in the aforesaid terms.

SMT. RANJANA DESAI, J.

sl.